

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
	)	
Federal-State Joint Board on Universal	)	CC Docket No. 96-45
Service Seeks Comment on Review of the	)	
Definition of Universal Service	)	

**REPLY COMMENTS OF SBC COMMUNICATIONS INC.**

SBC Communications Inc. (SBC) hereby submits its reply comments in response to the *Public Notice* issued by the Federal-State Joint Board on Universal Service (Joint Board) seeking comment on the list of “core” services supported by federal universal service mechanisms.<sup>1</sup> Most commenters agree with SBC’s position that the list of core services should not be modified at this time.

**I. Legal and Policy Considerations Weigh Against Expanding the List of Core Services Covered by the Universal Service Program**

As SBC discussed in its initial comments, there are a number of legal and policy considerations that should guide the Joint Board’s and the Commission’s review of the list of core services. First, the list of core services must be consistent with the statutory framework of Section 254(c) of the Act. A number of commenters echo SBC’s observation that the criteria set forth in Section 254(c) reflect the fact that universal service support is intended to serve a safety net function, providing support to the extent necessary to ensure ubiquitous access to essential

---

<sup>1</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Public Notice, FCC 01-J-1 (rel., August 21, 2001) (*Public Notice*).

services.<sup>2</sup> Thus, the addition of any service to the list of core services should occur only as a last resort when a service is truly deemed essential and the cost of deploying the service in a given area makes it unaffordable.

Second, expanding the list of core services could have a negative impact on consumers. Providing universal service support for additional services may have the effect of increasing the cost of basic service for all consumers.<sup>3</sup> It would not be in the public interest to create a situation where subscribers of basic services are subsidizing non-essential services through the universal service fund mechanism.

Third, expanding the list of core services could distort the market and have a negative impact on competition. As Chairman Powell recognized in a recent speech, the universal service objectives of ubiquity and affordability should be advanced in economically sound ways that do not “dampen competitive opportunity.”<sup>4</sup> It is important to remember that the list of core services is used to establish the qualifications for an eligible telecommunications carrier (ETC), in addition to being used to determine eligibility for universal service support. Therefore, expanding the list of core services could raise the bar for ETC status in a way that is not technologically and competitively neutral.<sup>5</sup> For example, wireless carriers raise the concern that adding services such as “soft dial tone” and “warm line” functionalities (collectively referred to as SDTWL functionalities) to the list of core services would have the effect of disqualifying

---

<sup>2</sup> See, e.g., AT&T Wireless Comments at 2-3.

<sup>3</sup> Ad Hoc Telecommunications Committee (Ad Hoc) Comments at 2.

<sup>4</sup> Chairman Michael K. Powell, Remarks at a Press Conference, *Digital Broadband Migration Part II*, at 2 (rel. Oct. 23, 2001).

<sup>5</sup> See Cellular Telecommunications & Internet Association (CTIA) Comments at 3.

wireless carriers from obtaining ETC status.<sup>6</sup> Wireless carriers express similar concerns about designating advanced services as core services.<sup>7</sup>

## **II. There Is Broad Concurrence Among Commenters for Not Designating Any of the Particular Services Discussed in the *Public Notice* as Core Services**

The *Public Notice* requested comment on a number of particular services that have been suggested as possible additions to the current list of core services. Based on the considerations discussed above, there is broad consensus among commenters for not designating any of these services as core services.

### **A. Advanced/High-Speed Services**

The vast majority of commenters – including state regulatory authorities, LECs, IXC's and various industry coalitions – concur with SBC's position that the Joint Board and the Commission should not add advanced or high-speed services to the list of core services at this time. Commenters correctly point out that these services fail to satisfy the statutory criteria for core services set forth in Section 254(c) the Act. In particular, such services are not “essential for education, public health, or public safety”<sup>8</sup> and have not been subscribed to by “a substantial majority of residential consumers.”<sup>9</sup> That factor alone is sufficient to exclude advanced services from the universal service program.

---

<sup>6</sup> *Id.*

<sup>7</sup> AT&T Wireless Comments at 4.

<sup>8</sup> *Id.* at 3.

<sup>9</sup> See e.g., New York State Department of Public Service Comments at 3-4 (“no more than five percent (5%) of households chose to subscribe to high-speed Internet access by the end of last year.... Thus, high-speed and/or advanced services fail to meet the Act's requirement that a substantial majority of residential customers have subscribed to the capability.”).

Moreover, there are good public policy reasons not to add advanced services to the list of core services. First, providing universal service support for advanced services could cause a significant increase in the size of the fund, thereby increasing the price of basic services.<sup>10</sup> Second, commenters express concern that the addition of advanced services to the list of core services could impede the development of the advanced services market and disadvantage new technologies (*e.g.*, Internet access provided via satellite) that do not provide the current list of core services.<sup>11</sup> SBC agrees that competition, rather than government regulation, is the best way to promote the deployment of advanced services.<sup>12</sup>

## **B. Enhanced Voice-Grade Access**

A few commenters seek to obtain universal service support for enhanced dial-up Internet access indirectly by revising the definition of “voice grade access.”<sup>13</sup> As SBC stated in its initial comments, the Commission and the Joint Board cannot bypass the statutory criteria of Section 254(c) under the guise of updating the record on the definition of voice grade access. Any modification of the current definition of “voice grade access” for the purpose of improving dial-up modem performance would constitute a fundamental *change* of the definition.

Moreover, a number of commenters argue that it would be inconsistent with the public interest to make such a revision at this time. For example, commenters point out that data-grade access is not a technological standard that can be met by wireless carriers.<sup>14</sup> Further,

---

<sup>10</sup> Illinois Commerce Commission Comments at 4.

<sup>11</sup> Florida Public Service Commission (PSC) Comments at 7.

<sup>12</sup> *See e.g.*, Competitive Universal Service Coalition (CUSC) Comments at 11-12.

<sup>13</sup> Regulatory Commission of Alaska Comments at 8-9; AARP Comments at 2.

<sup>14</sup> United States Cellular (USCC) Comments at 3.

commenters correctly observe that merely raising the technical standards for voice-grade access provides no guarantees for enhancing end-to-end data transmission speeds.<sup>15</sup> Thus, establishing a higher standard of “voice grade access” could have the effect of disqualifying a large class of providers from receiving universal service support, while completely failing to serve the intended policy goal of enhancing data-grade access.

### **C. Soft Dial Tone/Warm Line**

SDTWL functionalities should not be added to the list of core services because they are not “telecommunications services” that are eligible for universal service support. As SBC previously explained, SDTWL functionalities do not meet the statutory definition of “telecommunications services” because they are not services that are offered to the public in exchange for a fee.<sup>16</sup> Therefore, adding SDTWL functionalities to the list of core services would not be consistent with Section 254(c).

Some commenters advocate providing universal service support for SDTWL functionalities because they provide public safety benefits.<sup>17</sup> While that may be true, there also are public interest reasons not to include SDTWL functionalities in the list of core services. CTIA makes the point that SDTWL functionalities are inherently a wireline concept, since wireless networks do not provide dial tone.<sup>18</sup> Therefore, as with advanced services, adding SDTWL functionalities to the list of core services would have the effect of rendering wireless carriers ineligible for universal service support. In addition, SBC explained in its initial

---

<sup>15</sup> Florida PSC Comments at 9, BellSouth Comments at 5-6.

<sup>16</sup> 47 C. F. R. § 54.5

<sup>17</sup> Public Utilities Commission of Texas Comments at 4; GVNW Consulting Comments at 4; Iowa Utilities Board Comments at 7.

<sup>18</sup> CTIA Comments at 6; *see also* USCC Comments at 7.

comments that implementation of SDTWL on a universal basis would entail significant costs, conflict with other policy initiatives such as numbering resource optimization and local number portability, and place administration burdens on 911 emergency services.

**D. Extended Area/Toll/Calling Card/Payphone/N11 Services**

Finally, a number of commenters oppose adding extended area service (EAS), interstate and intrastate toll, and calling card services to the list of core services.<sup>19</sup> SBC concurs and believes the Joint Board and the Commission likewise should reject the addition of N11 services and payphone services. Even if all these services were deemed essential and ubiquitous (a questionable proposition at best), the inclusion of such services in the list of core services would preclude many providers, including wireless carriers, from being eligible to receive universal service support. Further, expanding the list of core services will artificially drive the market for such services, as providers seek to maintain their eligibility for universal service support. Once again, competition and not government regulation should be the primary driver of the market and the deployment of new services.

---

<sup>19</sup> People of the State of California and California Public Utilities Commission Comments at 5; CUSC Comments at 6.

For these reasons, the Joint Board and the Commission should not make any modifications to the list of core services at this time.

Respectfully Submitted,

/s/ Jeffrey A. Brueggeman  
Jeffrey A. Brueggeman  
Gary L. Phillips  
Paul K. Mancini

SBC Communications Inc.  
1401 I Street NW 11th Floor  
Washington, D.C. 20005  
Phone: 202-326-8911

Its Attorneys

January 4, 2002